101ST CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
101-350

POSTHUMOUS CITIZENSHIP FOR ACTIVE DUTY SERVICE ACT OF 1989

NOVEMBER 13, 1989.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. MORRISON of Connecticut, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 150]

The Committee on the Judiciary, to whom was referred the bill (H.R. 150) to amend the Immigration and Nationality Act to provide a procedure for an alien who dies while serving on active-duty with the U.S. Armed Forces during certain periods of hostilities to be considered a citizen of the United States at the time of the alien's death, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Posthumous Citizenship for Active Duty Service Act of 1989".

SEC. 2. POSTHUMOUS CITIZENSHIP THROUGH DEATH WHILE ON ACTIVE-DUTY SERVICE IN THE ARMED FORCES DURING WORLD WAR I, WORLD WAR II, THE KOREAN HOSTILITIES, THE VIETNAM HOSTILITIES, OR IN OTHER PERIODS OF MILITARY HOSTILITIES.

(a) IN GENERAL.—Chapter 2 of title III of the Immigration and Nationality Act is amended by inserting after section 329 (8 U.S.C. 1440) the following new section:

"POSTHUMOUS CITIZENSHIP THROUGH DEATH WHILE ON ACTIVE-DUTY SERVICE IN THE ARMED FORCES DURING WORLD WAR I, WORLD WAR II, THE KOREAN HOSTILITIES, THE VIETNAM HOSTILITIES, OR IN OTHER PERIODS OF MILITARY HOSTILITIES

"SEC. 329A. (a) PERMITTING GRANTING OF POSTHUMOUS CITIZENSHIP.—Notwithstanding any other provision of this title, the Attorney General shall provide, in accordance with this section, for the granting of posthumous citizenship at the time of death to a person described in subsection (b) if the Attorney General approves an application for that posthumous citizenship under subsection (c).

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"(b) NONCITIZENS ELIGIBLE FOR POSTHUMOUS CITIZENSHIP.—A person referred to in subsection (a) is a person who, while an alien or a noncitizen national of the United States—

"(1) served honorably in an active-duty status in the military, air, or naval forces of the United States during any period described in the first sentence of section 329(a),

"(2) died as a result of injury or disease incurred in or aggravated by that service, and

"(3) satisfied the requirements of clause (1) or (2) of the first sentence of section 329(a).

The executive department under which the person so served shall determine whether the person satisfied the requirements of paragraphs (1) and (2).

"(c) REQUESTS FOR POSTHUMOUS CITIZENSHIP.—A request for the granting of posthumous citizenship to a person described in subsection (b) may be filed on behalf of the person only by the next-of-kin (as defined by the Attorney General) or another representative (as defined by the Attorney General). The Attorney General shall approve such a request respecting a person if—

"(1) the request is filed not later than 2 years after—

"(A) the date of the enactment of this section, or

"(B) the date of the person's death, whichever date is later;

"(2) the request is accompanied by a duly authenticated certificate from the executive department under which the person served which states that the person satisfied the requirements of paragraphs (1) and (2) of subsection (b); and

"(3) the Attorney General finds that the person satisfied the requirement of subsection (b)(3).

"(d) DOCUMENTATION OF POSTHUMOUS CITIZENSHIP.—If the Attorney General approves such a request to grant a person posthumous citizenship, the Attorney General shall send to the individual who filed the request a suitable document which states that the United States considers the person to have been a citizen of the United States at the time of the person's death.

"(e) NO BENEFITS TO SURVIVORS.—Nothing in this section or section 319(d) shall be construed as providing for any benefits under this Act for any spouse, son, daughter, or other relative of a person granted posthumous citizenship under this section.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 329 the following new item:

"Sec. 329A. Posthumous citizenship through death while on active-duty service in the armed forces during World War I, World War II, the Korean hostilities, the Vietnam hostilities, or in other periods of military hostilities.".

PURPOSE OF BILL

The purpose of H.R. 150, as amended, is to allow aliens or noncitizen nationals of the United States who have died while serving honorably and in active-duty status in the U.S. Armed Forces to be considered U.S. citizens at the time of death.

HISTORY OF LEGISLATION

H.R. 150 was introduced by Congressman Donnelly on January 3, 1989. On September 21, 1989, the Subcommittee on Immigration, Refugees, and International Law held a hearing on the bill, at which the Administration indicated its support for the measure. During Subcommittee mark-up on November 1, 1989, Chairman Morrison offered an amendment in the nature of a substitute to the bill, which was adopted. The bill, as amended, was then favorably reported to the full Judiciary Committee by voice vote.

COMMITTEE VOTE

H.R. 150, as amended, was considered by the full Judiciary Committee on November 9, 1989, and was ordered favorably reported, as amended by the Subcommittee, by voice vote.

Need for Legislation

H.R. 150, will confer posthumous United States citizenship on aliens or noncitizens who were killed while serving in the Armed Forces of the United States. This legislation is a symbolic measure to express that the United States honors the memory of the individual who gave their life for our country. In 1984, former President Ronald Reagan said "We cannot repay these men for their sacrifice, valor, or patriotism; but it is only right that we bestow on each of them our Nation's highest honor: American citizenship."

Analysis of Legislation

This bill will allow the Attorney General to grant posthumous citizenship to an individual at the time of death, if the alien or noncitizen national of the United States has served honorably in active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by that service. The Committee expects that the executive department will provide to an individual eligible to make such a request a document attesting to the individual's honorable service and the cause of death. A request for the granting of posthumous citizenship may be filed by the next-of-kin or another representative determined by the Attorney General. The Committee believes that the request should come from the person's spouse at the time of death. If there is no such spouse or such spouse dies, a son or daughter of the person who has reached the age of 18 or older shall be eligible to file a request. If there is no spouse or child (who has reached the age of 18), then the parent of the person shall be eligible to file the request. If there is no spouse, child or parents able to file, an immediate relative, as determined by the Attorney General shall be able to file a request. The document provided to the individual who filed the request shall state that the person was a citizen at the time of death. Since this legislation is honoring the alien serviceman by bestowing a symbolic citizenship at the time of death, no immigrant benefits may be derived by any spouse, child, or other relative of the person.

Administration Position

The Administration supports the enactment of this bill.

Oversight Statement

Clause 2(l)(3)(A) or rule XI of the Rules of the House of Representatives is inapplicable since no oversight findings and recommendations have been received from the Committee on Government Operations.

Inflationary Impact Statement

Pursuant to Clause 2(l)(4) of rule XI of the Rules of the House of Representatives the Committee estimates that this bill will not have a significant inflationary effect on prices and costs in the operation of the national economy.

COMMITTEE RECOMMENDATION

After careful consideration of this legislation, the Committee is of the opinion that this bill should be enacted and accordingly recommends that H.R. 150, as amended, do pass.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

IMMIGRATION AND NATIONALITY ACT

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Sec. 329A. Posthumous citizenship through death while on active-duty service in the armed forces during World War I, World War II, the Korean hostilities, the Vietnam hostilities, or in other periods of military hostilities.

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TITLE III—NATIONALITY AND NATURALIZATION

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CHAPTER 2—NATIONALITY THROUGH NATURALIZATION

JURISDICTION TO NATURALIZE

SEC. 310. * * *

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POSTHUMOUS CITIZENSHIP THROUGH DEATH WHILE ON ACTIVE-DUTY SERVICE IN THE ARMED FORCES DURING WORLD WAR I, WORLD WAR II, THE KOREAN HOSTILITIES, THE VIETNAM HOSTILITIES, OR IN OTHER PERIODS OF MILITARY HOSTILITIES

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(b) NONCITIZENS ELIGIBLE FOR POSTHUMOUS CITIZENSHIP.—A person referred to in subsection (a) is a person who, while an alien or a noncitizen national of the United States—

(1) served honorably in an active-duty status in the military, air, or naval forces of the United States during any period described in the first sentence of section 329(a),

(2) died as a result of injury or disease incurred in or aggravated by that service, and

(3) satisfied the requirements of clause (1) or (2) of the first sentence of section 329(a).

The executive department under which the person so served shall determine whether the person satisfied the requirements of paragraphs (1) and (2).

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(1) the request is filed not later than 2 years after—

(A) the date of the enactment of this section, or

(B) the date of the person's death, whichever date is later;

(2) the request is accompanied by a duly authenticated certificate from the executive department under which the person served which states that the person satisfied the requirements of paragraphs (1) and (2) of subsection (b); and

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(e) NO BENEFITS TO SURVIVORS.—Nothing in this section or section 319(d) shall be construed as providing for any benefits under this Act for any spouse, son, daughter, or other relative of a person granted posthumous citizenship under this section.

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